

REFERENCE TITLE: **contractors; licensure; appliance exemption**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2585

Introduced by
Representatives Pearce, Gorman

AN ACT

AMENDING SECTIONS 32-1121 AND 32-1123, ARIZONA REVISED STATUTES; RELATING TO CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1121, Arizona Revised Statutes, is amended to
3 read:

4 32-1121. Persons not required to be licensed; penalties

5 A. This chapter shall not be construed to apply to:

6 1. An authorized representative of the United States government, this
7 state or any county, incorporated city or town, reclamation district,
8 irrigation district or other municipality or political subdivision of this
9 state.

10 2. Trustees of an express trust that is not formed for the purpose of
11 conducting business as a contractor or officers of a court, if they are
12 acting within the terms of their trust or office.

13 3. Public utilities operating under regulation of the corporation
14 commission or construction, repair or operation incidental to discovering or
15 producing petroleum or gas, or the drilling, testing, abandoning or other
16 operation of a petroleum or gas well, if performed by an owner or lessee.

17 4. Any materialman, manufacturer or retailer furnishing finished
18 products, materials or articles of merchandise who does not install or attach
19 such items or installs or attaches such items if the total value of the sales
20 contract or transaction involving such items and the cost of the installation
21 or attachment of such items to a structure does not exceed seven hundred
22 fifty dollars, including labor, materials and all other items, **BUT EXCLUDING**
23 **ANY FIXTURE OR APPLIANCE THAT IS TO BE INSTALLED AND THAT IS NOT A PERMANENT**
24 **PART OF A STRUCTURE.** The materialman, manufacturer or retailer shall inform
25 the purchaser that the installation may also be performed by a licensed
26 contractor whose name and address the purchaser may request.

27 5. Owners of property who improve such property or who build or
28 improve structures or appurtenances on such property and who do the work
29 themselves, with their own employees or with duly licensed contractors, if
30 the structure, group of structures or appurtenances, including the
31 improvements thereto, are intended for occupancy solely by the owner and are
32 not intended for occupancy by members of the public as the owner's employees
33 or business visitors and the structures or appurtenances are not intended for
34 sale or for rent. In all actions brought under this chapter, proof of the
35 sale or rent or the offering for sale or rent of any such structure by the
36 owner-builder within one year after completion or issuance of a certificate
37 of occupancy is prima facie evidence that such project was undertaken for the
38 purpose of sale or rent. ~~As used in~~ **FOR THE PURPOSES OF** this paragraph
39 "sale" or "rent" includes any arrangement by which the owner receives
40 compensation in money, provisions, chattels or labor from the occupancy or
41 the transfer of the property or the structures on the property.

42 6. Owners of property who are acting as developers and who build
43 structures or appurtenances to structures on their property for the purpose
44 of sale or rent and who contract for such a project with a general contractor
45 licensed pursuant to this chapter and owners of property who are acting as

1 developers, who improve structures or appurtenances to structures on their
2 property for the purpose of sale or rent and who contract for such a project
3 with a general contractor or specialty contractors licensed pursuant to this
4 chapter. To qualify for the exemption under this paragraph, the licensed
5 contractors' names and license numbers shall be included in all sales
6 documents.

7 7. Architects or engineers who are engaging in their professional
8 practice as defined in chapter 1 of this title and who hire or offer to hire
9 the services of a contractor for preconstruction activities relating to
10 investigation and discovery including:

11 (a) Subsurface utility location and designation services.

12 (b) Potholing.

13 (c) Drilling for any of the following:

14 (i) Soil samples.

15 (ii) Rock samples.

16 (iii) Pavement samples.

17 (d) Locating existing features of a building or structure including
18 existing electrical, mechanical, plumbing and structural members.

19 8. A person licensed, certified or registered pursuant to chapter 22
20 of this title or a person working under the direct supervision of a person
21 certified or qualified pursuant to chapter 22 of this title to the extent the
22 person is engaged in structural pest control.

23 9. The sale or installation of finished products, materials or
24 articles of merchandise which are not fabricated into and do not become a
25 permanent fixed part of the structure. This exemption does not apply if a
26 local building permit is required, if the total price of the finished
27 product, material or article of merchandise, including labor **BUT EXCLUDING**
28 **ANY FIXTURE OR APPLIANCE THAT IS TO BE INSTALLED AND THAT IS NOT A PERMANENT**
29 **PART OF A STRUCTURE**, is more than seven hundred fifty dollars or if the
30 removal of the finished product, material or article of merchandise causes
31 damage to the structure or renders the structure unfit for its intended use.

32 10. Employees of the owners of condominiums, townhouses, cooperative
33 units or apartment complexes of four units or less or the owners' management
34 agent or employees of the management agent repairing or maintaining
35 structures owned by them.

36 11. Any person who engages in the activities regulated by this chapter,
37 as an employee of an exempt property owner or as an employee with wages as
38 the person's sole compensation.

39 12. A surety company or companies which are authorized to transact
40 business in this state and which undertake to complete a contract on which
41 they issued a performance or completion bond, provided all construction work
42 is performed by duly licensed contractors.

43 13. Insurance companies which are authorized to transact business in
44 this state and which undertake to perform repairs resulting from casualty

1 losses pursuant to the provisions of a policy, provided all construction work
2 is performed by duly licensed contractors.

3 14. Any person other than a licensed contractor engaging in any work or
4 operation on one undertaking or project by one or more contracts, for which
5 the aggregate contract price, including labor, materials and all other items
6 **BUT EXCLUDING ANY FIXTURE OR APPLIANCE THAT IS TO BE INSTALLED AND THAT IS**
7 **NOT A PERMANENT PART OF A STRUCTURE**, is less than seven hundred fifty
8 dollars. The work or operations which are exempt under this paragraph shall
9 be of a casual or minor nature. This exemption does not apply:

10 (a) In any case in which the performance of the work requires a local
11 building permit.

12 (b) In any case in which the work or construction is only a part of a
13 larger or major operation, whether undertaken by the same or a different
14 contractor, or in which a division of the operation is made in contracts of
15 amounts less than seven hundred fifty dollars, **EXCLUDING ANY FIXTURE OR**
16 **APPLIANCE THAT IS TO BE INSTALLED AND THAT IS NOT A PERMANENT PART OF A**
17 **STRUCTURE**, for the purpose of evasion of this chapter or otherwise.

18 (c) To a person who utilizes any form of advertising to the public in
19 which the person's unlicensed status is not disclosed by including the words
20 "not a licensed contractor" in the advertisement.

21 15. A person who is licensed, certified or registered pursuant to
22 title 41, chapter 16 and who is not otherwise required to be licensed under
23 this chapter or an employee of such person.

24 16. A person who functions as a gardener by performing lawn, garden,
25 shrub and tree maintenance.

26 B. A person who is licensed to perform work in a particular trade
27 pursuant to this chapter shall not be required to obtain and maintain a
28 separate license for mechanical or structural service work performed within
29 the scope of such trade by such person.

30 C. Any person who does not have an exemption from licensure pursuant
31 to subsection A, paragraph 14, subdivision (c) of this section is subject to
32 prosecution for a violation of section 44-1522. The attorney general may
33 investigate the act or practice and take appropriate action pursuant to title
34 44, chapter 10, article 7.

35 Sec. 2. Section 32-1123, Arizona Revised Statutes, is amended to read:

36 32-1123. **Unlicensed contractors; contract bidding; license**
37 **denial; exemptions; warning**

38 A. Except as provided in subsection D of this section, if an entity
39 that is not licensed pursuant to this chapter bids on a contract for a
40 project with an aggregate worth of more than seven hundred fifty dollars,
41 **EXCLUDING ANY FIXTURE OR APPLIANCE THAT IS TO BE INSTALLED AND THAT IS NOT A**
42 **PERMANENT PART OF A STRUCTURE**, the registrar shall not issue the entity a
43 license pursuant to this chapter for one year after the date of the bid.

44 B. This section does not apply to an entity that bids on a contract
45 for either of the following:

1 1. A department of transportation project.

2 2. A project that is subject to the federal acquisition regulation,
3 title 48 Code of Federal Regulations, including the department of defense
4 federal acquisition regulation.

5 C. This section does not affect the licensing exemptions prescribed in
6 section 32-1121.

7 D. If an entity bids on a contract for a project pursuant to
8 subsection A of this section and the project has an aggregate worth of more
9 than seven hundred fifty dollars, **EXCLUDING ANY FIXTURE OR APPLIANCE THAT IS**
10 **TO BE INSTALLED AND THAT IS NOT A PERMANENT PART OF A STRUCTURE**, and less
11 than twenty thousand dollars, the registrar shall issue the entity a written
12 warning relating to the unlicensed activity if the registrar has not
13 previously issued the entity a warning.